

Professionalism Commission Minutes, August 25, 2004

Judge Battaglia called the meeting to order at 4:00 p.m. Absentees included: R. Baldwin; Judge Bennett; D. Densford; R. Greenleaf; F. Greer; N. Helfrich; Judge Hong; W. Hudson; Judge Legg; J. Otway; S. Patterson; Judge Sweeney; D. Walters; D. Williams. The minutes from the July 21, 2004 meeting were approved. Judge Battaglia then solicited suggestions for new interns for the Fall. Bill Young announced a lecture by Professor P.M. Forni, author of *Choosing Civility*, to take place September 28th in Hagerstown.

Judge Battaglia then turned the meeting over to Tom Lynch, Chair of the Subcommittee on Standards of Professional Conduct. Tom circulated a published case authored by a trial judge who, in humorous but pointed opinion, commented on an all too familiar scenario - - the bitter discovery battle that ends with counsel filing cross motions replete with insulting, personal attacks. Judge Battaglia passed out copies of the July-August issue of *The Bench*, magazine of the American Inns of Court, which was given over to a series of articles on the subject of civility.

Tom Lynch and his subcommittee then broke the meeting into two groups to discuss the Subcommittee report, specifically questions such as agreement with the Subcommittee's consensus items, comments on the Model Code of Professionalism, and the desirability of an annual public commitment to a code of professionalism. Further discussion included items such the format for a code (detailed or simple) and whether we should even call the aspirational document a code.

Break out discussions went further into the question of whether we should adopt a "code," a "guideline," a "creed," a "pledge," or a document of some other description. Whatever the name, the document to which we will pledge ourselves should be detailed enough to give guidance but not so long as to be put on the shelf soon after its ratification. The Code probably should be published in the Maryland Rules, in the same manner as the Maryland Discovery Guidelines, and cross-referenced to the Rules of Professional Conduct.

When the whole group re-assembled, it took up a discussion of the nature of a code of professionalism. If it is aspirational, in the manner of the former "EC" Rules, will it be disregarded? Should the code instead be fashioned as a set of rules? If so, will the new code be in conflict with the Rules of Professional Conduct? Will the new code establish a higher level of conduct above the standards set forth in the Rules of Professional Conduct?

In any event, stated Tom Lynch, the hope is to drive from our profession what is perceived as a culture of irresponsibility and to foster instead a convention of responsibility to our ideals, our profession, and our clients.

Judge Battaglia asked Tom and his Subcommittee to draft a working document for further consideration. She then adjourned the meeting.